



Australian Capital Territory

Dental Technicians and Dental Prosthetists Registration Act 1988

A1988-85

Republication No 6

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Last amendment made by A2004-15

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Dental Technicians and Dental Prosthetists Registration Act 1988* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 9 April 2004. It also includes any amendment, repeal or expiry affecting the republished law to 9 April 2004.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

Dental Technicians and Dental Prosthetists Registration Act 1988

Contents

	Page	
Part 1	Preliminary	
1	Name of Act	2
3	Interpretation for Act	2
4	Dental prosthetic services	3
Part 2	The Dental Technicians and Dental Prosthetists Board	
Division 2.1	General	
5	Establishment	6
6	Constitution	6
7	Membership	7
8	Executive officer	7

R6
09/04/04

Dental Technicians and Dental Prosthetists Registration
Act 1988

Effective: 09/04/04-09/01/05

contents 1

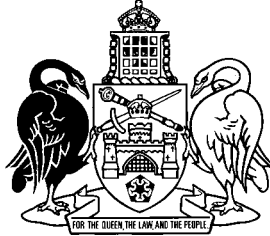
Contents

		Page
9	Deputy chairperson	7
10	Resignation	8
11	Removal from office	8
12	Leave of absence	8
13	Remuneration	9
14	Disclosure of interest	9
15	Impartiality of board	10
16	Protection of members	10
Division 2.2 Meetings		
18	Meetings	10
19	Quorum	10
20	Presiding member	11
21	Notice of motion	11
22	Records of meetings	11
23	Voting	11
Part 3 Registration		
24	Registers	13
25	Applications for registration	13
26	Registration of individuals	13
27	Registration of companies	14
28	Attendance	15
29	Provisional registration	16
30	Temporary registration	16
31	Application of certain sections	17
32	Entries in registers	17
33	Certificate of registration	18
34	Annual registration fee	19
35	Change of address	19
36	Alteration of registers	20
Part 4 Performance of dental technical work and provision of dental prosthetic services		
37	Persons who may practise	21

	Page
38 Business names	22
39 Professional indemnity insurance—registered dental prosthetists	23
40 Performance of dental technical work	23
41 Recovery of fees	23
42 Review of accounts	25
43 Administration of deceased estate	26
Part 5 Disciplinary procedures	
Division 5.1 Cancellation and suspension	
44 Cancellation or suspension	27
45 Inquiry by board	28
46 Effect of suspension	29
47 Application for re-registration	29
Division 5.2 Inquiries	
48 Meaning of <i>inquiry</i> in div 5.2	29
49 Ministerial direction to hold inquiry	29
50 Notice	30
51 Constitution of board	30
52 Records	30
53 Procedure	30
54 Inquiries to be in public	31
55 Assistance	31
56 Representation	32
57 Powers of board	32
58 Inspection of documents	32
59 Decisions	33
60 Protection	33
61 Witness fees and travelling expenses	33
62 Offences—inquiries	34
Part 6 Miscellaneous	
Division 6.1 Review of board's decisions	
63 Review of decisions	35

Contents

	Page
64 Notification of decisions	35
Division 6.2 General	
66 Inspection of register	36
67 Evidence	36
68 Offences	37
69 Publication of decisions	37
70 Publication of names etc of registered persons	38
71 Conduct of directors, servants and agents	38
73 Determination of fees	40
74 Approved forms	40
75 Regulation-making power	40
Endnotes	
1 About the endnotes	41
2 Abbreviation key	41
3 Legislation history	42
4 Amendment history	43
5 Earlier republications	46



Australian Capital Territory

Dental Technicians and Dental Prosthetists Registration Act 1988

An Act to provide for the registration of persons engaged in the performance of dental technical work or the provision of dental prosthetic services, and for related purposes

R6
09/04/04

Dental Technicians and Dental Prosthetists Registration
Act 1988

page 1

Effective: 09/04/04-09/01/05

Part 1 Preliminary

1 Name of Act

This Act is the *Dental Technicians and Dental Prosthetists Registration Act 1988*.

3 Interpretation for Act

(1) In this Act:

Note A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

artificial denture includes a partial artificial denture.

board means the Dental Technicians and Dental Prosthetists Board established by section 5.

chairperson means the chairperson of the board.

dental prosthetic service—see section 4.

dental technical work means the making, altering, repairing or maintaining of—

- (a) artificial dentures; and
- (b) restorative or corrective dental appliances.

deputy chairperson means the deputy chairperson of the board.

fitting includes taking an impression or making a measurement for the purpose of inserting, constructing, repairing or maintaining an artificial denture.

member means a member of the board.

register means—

- (a) the register of dental prosthetists; or

(b) the register of dental technicians;
as the case requires, kept under section 24.

registered means registered under this Act.

(2) For this Act—

(a) an individual shall be deemed to perform dental technical work or provide a dental prosthetic service if the work is performed, or the service is provided, by another person employed or engaged by the firstmentioned person in the course of a business carried on by that person; and

(b) a company shall be deemed to perform dental technical work or provide a dental prosthetic service if the work is performed, or the service provided, by a person employed or engaged by the company to perform dental technical work or provide dental prosthetic services, as the case may be.

(3) Nothing in this Act applies in relation to the carrying on by a person, in accordance with Territory laws, of the business or profession of dentist or doctor.

4 Dental prosthetic services

(1) For this Act but subject to this section—

dental prosthetic service means—

(a) advice or attention given for the purpose of, or in connection with, the fitting, insertion, construction, alteration, repair or maintenance of an artificial denture; and

(b) the fitting or insertion of an artificial denture in a healthy human mouth; and

(c) the construction, repair or maintenance of an artificial denture in connection with the exercise of a function referred to in paragraph (a) or (b).

- (2) A dental prosthetic service does not include the fitting or insertion of an artificial denture if, in the proper practice of dentistry, it would be reasonably foreseen that, before any such work is begun, an adjustment of natural teeth or the jaw would be required for the purpose of—
- (a) balancing the occlusion of natural teeth and the artificial denture; or
 - (b) preparing natural teeth or the jaw for the insertion of the artificial denture.
- (3) For subsection (1), an artificial denture does not include—
- (a) a fixed bridge; or
 - (b) an artificial denture—
 - (i) of which an intracoronal retainer forms part; or
 - (ii) to which an intracoronal retainer is attached; or
 - (iii) that is combined with an obturator.
- (4) For subsection (1), a human mouth is not healthy if—
- (a) the jaws are apparently—
 - (i) damaged and not completely healed; or
 - (ii) diseased; or
 - (b) the mouth contains any soft tissue that is apparently—
 - (i) damaged and not completely healed; or
 - (ii) diseased; or
 - (c) the mouth contains any teeth that are apparently—
 - (i) carious; or
 - (ii) damaged and not completely healed; or
 - (iii) diseased.

Part 2 The Dental Technicians and Dental Prosthetists Board

Division 2.1 General

5 Establishment

- (1) There is established by this section a board by the name of the Dental Technicians and Dental Prosthetists Board.
- (2) The board—
 - (a) is a body corporate with perpetual succession; and
 - (b) shall have a common seal; and
 - (c) may sue and be sued in its corporate name.
- (3) All courts, judges and persons acting judicially shall take judicial notice of the seal of the board attached to a document and shall presume that it was duly attached.

6 Constitution

- (1) The board shall consist of—
 - (a) the chairperson and 2 other members, each of whom is a registered dental prosthetist; and
 - (b) 2 members, other than the members referred to in paragraph (a), each of whom is a registered dental technician; and
 - (c) 1 member who is not entitled to be registered under this Act or by a health professions board.
- (2) For subsection (1) (c), *health professions board* means a board within the meaning of the *Health Professions Boards (Procedures) Act 1981*.

7 Membership

Each member—

- (a) shall be appointed in writing by the Minister; and
- (b) subject to this Act, holds office for the period, not exceeding 3 years, and on the terms and conditions, specified in the instrument of appointment.

8 Executive officer

The chairperson shall be the executive officer of the board.

9 Deputy chairperson

- (1) The members shall, from time to time, as occasion requires, elect one of their number to be the deputy chairperson.
- (2) The chairperson shall inform the Minister in writing of the election of the deputy chairperson.
- (3) The deputy chairperson—
 - (a) holds office for 12 months from the date of the election, unless he or she sooner ceases to be a member; and
 - (b) is eligible for re-election.
- (4) The deputy chairperson may resign the office of deputy chairperson in writing signed by the deputy chairperson and delivered to the chairperson.
- (5) The deputy chairperson may act as the chairperson during any period when the chairperson is temporarily unable to exercise the functions of the office of chairperson.
- (6) While the deputy chairperson is acting in the office of chairperson, the deputy chairperson has and may exercise all the functions of the chairperson.

10 Resignation

The chairperson or any other member may resign the office of chairperson or member by writing signed by the chairperson or member and delivered to the Minister.

11 Removal from office

- (1) The Minister may remove a member from office for misbehaviour or physical or mental incapacity.
- (2) The Minister shall remove a member from office if the member—
 - (a) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or
 - (b) is convicted in the ACT or in a State or another Territory of an offence punishable on conviction by imprisonment for 1 year or more; or
 - (c) is absent without leave under section 12 from 3 consecutive meetings of the board; or
 - (d) for a member referred to in section 6 (1) (a) or (b)—ceases to be a registered dental prosthetist or a registered dental technician, as the case requires; or
 - (e) fails, without reasonable excuse, to comply with section 14.

12 Leave of absence

- (1) The Minister may grant leave of absence to the chairperson on the terms and conditions as the Minister determines in writing.
- (2) The chairperson may grant leave of absence to another member for the period, not exceeding 1 year, and on the terms and conditions that the chairperson determines in writing.

13 Remuneration

- (1) Subject to this section, a member is not entitled to remuneration in relation to any duties or functions performed in his or her capacity as a member.
- (2) The board shall reimburse a member for any expenses reasonably incurred by the member in the exercising of the member's duties or functions.
- (3) A member is entitled to remuneration for time spent sitting on the board for the hearing of an inquiry under section 45 or 49.

14 Disclosure of interest

- (1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the board shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the member's interest at a board meeting.
- (2) A disclosure shall be recorded in the minutes of the meeting and the member shall not, unless the Minister or the board otherwise determines—
 - (a) be present during any deliberation of the board in relation to that matter; or
 - (b) take part in any decision of the board in relation to that matter.
- (3) A member referred to in subsection (2) shall not—
 - (a) be present during any deliberation of the board for the purpose of considering whether to make a determination under that subsection in relation to that member; or
 - (b) take part in the making by the board of a determination.

15 Impartiality of board

Subject to this Act, a member shall not be subject to the direction of any person in relation to any act or thing done in his or her capacity as a member.

16 Protection of members

An action (other than an action in negligence) or other proceeding, civil or criminal, does not lie against a member for or in relation to any act done in good faith in his or her capacity as a member.

Division 2.2 Meetings

18 Meetings

- (1) The board shall hold the meetings necessary for the exercise of its functions.
- (2) The chairperson may, at any time, by written notice to the other members, call a meeting at the time and place specified in the notice.
- (3) The Minister may, by written notice to each member, direct that a meeting be held at the time and place specified in the notice.
- (4) If, at any time, a majority of the members requests the chairperson in writing to call a meeting, the chairperson shall call a meeting in accordance with the request.
- (5) The board may invite any person to attend a meeting for the purpose of advising or informing the board on any matter.

19 Quorum

At a meeting, 4 members constitute a quorum.

20 Presiding member

- (1) The chairperson shall preside at all meetings at which he or she is present.
- (2) If the chairperson and the deputy chairperson are absent from a meeting, the members present shall elect 1 of their number to preside.

21 Notice of motion

- (1) A motion shall not be proposed at a meeting unless written notice of the motion has been given to the chairperson at least 7 days before the date of the meeting.
- (2) Particulars of the notice shall be included in the notice calling the meeting at which the motion is to be considered.

22 Records of meetings

The board shall keep a record of its proceedings.

23 Voting

- (1) A question arising at a meeting shall be determined by a majority of votes of the members present and voting.
- (2) Voting shall be—
 - (a) by show of hands; or
 - (b) if a vote by ballot is requested by a member present—by ballot.
- (3) If the chairperson is presiding at a meeting, he or she has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- (4) If—

(a) the chairperson and the deputy chairperson are absent from a meeting; and

(b) the members present do not agree on a question;

the determination of that question shall be postponed until the next meeting.

Part 3 Registration

24 Registers

The board shall keep—

- (a) a register to be called the register of dental technicians; and
- (b) a register to be called the register of dental prosthetists.

25 Applications for registration

An applicant for registration under this part must give the board a completed application form.

Note 1 A fee may be determined under s 73 (Determination of fees) for this section.

Note 2 If a form is approved under s 74 (Approved forms) for an application, the form must be used.

26 Registration of individuals

- (1) The board shall, on application by an individual for registration as a dental technician, register the person accordingly if satisfied that—
 - (a) the applicant is entitled to practise as a dental technician in a State or another Territory under a law of that State or Territory relating to the performance of dental technical work; or
 - (b) the applicant has completed, to the board's satisfaction, an approved course of instruction or an examination conducted by, or on behalf of, the board.
- (2) The board shall, on application by an individual for registration as a dental prosthetist, register the person accordingly if satisfied that—
 - (a) the applicant is a registered dental technician; and
 - (b) the applicant—

- (i) is entitled to practise as a dental prosthetist in a State or another Territory under a law of that State or Territory relating to the provision of dental prosthetic services; or
 - (ii) has completed, to the board's satisfaction, an approved course of instruction or an examination conducted by, or on behalf of, the board.
- (3) The board shall not register an applicant as a dental prosthetist if satisfied that the applicant does not, or will not, have professional indemnity insurance in relation to dental prosthetic services provided by that applicant otherwise than as an employee or agent.
- (4) The board shall not register an applicant if satisfied that the applicant—
 - (a) does not have an adequate knowledge of the English language; or
 - (b) is not domiciled in Australia; or
 - (c) is not otherwise a fit and proper person to be registered.
- (5) The Minister may, in writing and on the recommendation of the board, approve a course of instructions.
- (6) An approval is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.
- (7) In this section:

approved course of instruction means a course of instruction that is approved under subsection (5).

27 Registration of companies

- (1) The board shall, on application by a company for registration as a dental technician, register the company accordingly if satisfied that—

- (a) the company is not prohibited by its memorandum of association from carrying on business as a dental technician; and
 - (b) at least 1 of its directors is a registered dental technician; and
 - (c) the controlling interest in the company is held by 1 or more registered dental technicians.
- (2) The board shall, on application by a company for registration as a dental prosthetist, register the company accordingly if satisfied that—
- (a) the company is not prohibited by its memorandum of association from carrying on business as a dental prosthetist; and
 - (b) at least 1 of its directors is a registered dental prosthetist; and
 - (c) the controlling interest in the company is held by 1 or more registered dental prosthetists.
- (3) The board shall not register a company as a dental prosthetist if satisfied that the company does not, or will not, have professional indemnity insurance in relation to dental prosthetic services provided by that company.

28 Attendance

- (1) The board may, by written notice, require an applicant for registration (including provisional or temporary registration) to give the board either orally or in writing, the further information relating to the application that is specified in the notice.

Note It is an offence to make a false or misleading statement or give false or misleading information (see Criminal Code, pt 3.4).

- (2) The board may require—
- (a) an applicant who is an individual; or
 - (b) if the applicant is a company—a director of the company;

to attend before the board for the purpose of giving the information.

- (3) If the applicant or director fails to give information, or attend, as required, the board may refuse the application.

29 Provisional registration

- (1) The board may provisionally register an applicant for registration if the applicant applies also for provisional registration.
- (2) Subject to subsection (3), a person ceases to be provisionally registered at the end of the 3 months beginning on the date of provisional registration.
- (3) If within that 3 months the board makes a decision on the application for registration, the provisional registration ceases—
- (a) if the board registers the applicant—on registration; and
 - (b) if the board refuses to register the applicant—at the end of the date when the applicant is notified in accordance with section 64 of the decision.
- (4) Provisional registration is not renewable.

30 Temporary registration

- (1) The board may, on application by a person for temporary registration as a dental technician, register the person accordingly if satisfied that the applicant—
- (a) is entitled to practise as a dental technician in a State or another Territory under a law of that State or Territory relating to the performance of dental technical work; and
 - (b) intends to perform dental technical work in the ACT on behalf of a registered dental technician.
- (2) The board may, on application by a person for temporary registration as a dental prosthetist, register the person accordingly if satisfied that the applicant—

- (a) is entitled to practise as a dental prosthetist in a State or another Territory under a law of that State or Territory relating to the provision of dental prosthetic services; and
 - (b) intends to provide dental prosthetic services in the ACT on behalf of a registered dental prosthetist.
- (3) The board shall not register an applicant if satisfied that the applicant—
- (a) does not have an adequate knowledge of the English language; or
 - (b) is not domiciled in Australia; or
 - (c) is not otherwise a fit and proper person to be registered.
- (4) Temporary registration shall remain in force for the 3 months after the date of registration and may, on application, be renewed for a further 3 months.

Note A fee may be determined under s 73 (Determination of fees) for this subsection.

- (5) The board shall not register, or renew the registration of, an applicant who has been temporarily registered for a period of, or periods that amount to, 6 months during the period of 24 months immediately before the date when the application is made.

31 Application of certain sections

A person who is provisionally or temporarily registered shall be deemed to be registered for sections 32, 33, 35 and 36, part 4 and section 44.

32 Entries in registers

- (1) Registration shall be effected by entering in the appropriate register—
- (a) for an individual—

- (i) the name of the person; and
 - (ii) his or her professional address in the ACT or, if the person has no professional address in the ACT, his or her place of residence, whether within or outside the ACT; and
 - (iii) the qualifications of the person; and
- (b) for a company—
- (i) the name of the company; and
 - (ii) the address where the company carries on business in the ACT or, if the company does not carry on business in the ACT, the registered office of the company, whether within or outside the ACT; and
 - (iii) the names of the directors and members of the company who are registered; and
- (c) the registration number allotted to the person; and
- (d) the date of registration.
- (2) An entry in a register shall be signed by the chairperson.

33 Certificate of registration

- (1) The board shall issue a certificate of registration to a person who is registered.
- (2) A certificate is evidence that the person specified in the certificate was registered as a dental technician or dental prosthetist, as the case may be, on the date specified in the certificate.
- (3) If a certificate issued under subsection (1) to a registered person has been stolen, lost or destroyed, the board must, on application by the person, issue a duplicate certificate.

Note A fee may be determined under s 73 (Determination of fees) for this section.

- (4) If a person ceases to be registered, the board may, by written notice served on the person, require the person, within 14 days after the date of the notice, to give the board the certificate relating to that person.
- (5) A person shall not, without reasonable excuse, fail to comply with a notice given under subsection (4).

Maximum penalty: 5 penalty units.

34 Annual registration fee

- (1) On or before 1 September in each year, a registered person must pay to the board the annual registration fee determined under section 73 (Determination of fees) for this section for the year.
- (2) If a person fails to comply with subsection (1), the board shall serve the person with a notice—
 - (a) requiring the person to pay the fee within 1 month after the date of the notice; and
 - (b) advising the person that the person's registration will be cancelled if the person fails to comply with the notice.
- (3) The board shall cancel the registration of a person who fails to comply with the notice.
- (4) A person whose registration has been cancelled under subsection (3) for failure to pay the annual registration fee determined under section 73 for a year is entitled to be re-registered if the person pays the fee within 1 year after the cancellation.

35 Change of address

If a registered person—

- (a) changes the address entered in the appropriate register under section 32; or
- (b) establishes, or ceases to have—

- (i) for an individual—a professional address in the ACT; or
- (ii) for a company—an address where the company carries on business in the ACT;

the person shall within 1 month after the change, establishment or cessation notify the chairperson in writing.

Maximum penalty: 5 penalty units.

36 Alteration of registers

The board—

- (a) shall remove from the appropriate register the name of a person—
 - (i) if the person has died; or
 - (ii) if the person has ceased to be registered; or
 - (iii) if the person is a company—if the company has been wound up; and
- (b) shall—
 - (i) at the request of a registered person; or
 - (ii) on its own initiative;

make the alterations to particulars in the appropriate register that are necessary.

Note A fee may be determined under s 73 (Determination of fees) for this section.

Part 4 Performance of dental technical work and provision of dental prosthetic services

37 Persons who may practise

- (1) A person other than a registered dental technician shall not—
- (a) perform, for fee or reward, dental technical work; or
 - (b) take or use, either alone or in combination with any other words or letters, the name or title of a dental technician or a name, title, addition or description (including initials or letters placed after the person's name) indicating or implying that the person is a registered dental technician or that the person performs, or is qualified to perform, dental technical work; or
 - (c) by advertisement or otherwise, purport to be qualified or authorised to perform dental technical work or purport to be a person who performs dental technical work.

Maximum penalty:

- (a) for paragraph (a)—50 penalty units, imprisonment for 6 months or both;
 - (b) for paragraph (b) or (c)—30 penalty units.
- (2) A person other than a registered dental prosthetist shall not—
- (a) provide, for fee or reward, a dental prosthetic service; or
 - (b) take or use, either alone or in combination with any other words or letters, the name or title of a dental prosthetist or a name, title, addition or description (including initials or letters placed after the person's name) indicating or implying that the person is a registered dental prosthetist or that the person provides, or is qualified to provide, dental prosthetic services; or

- (c) by advertisement or otherwise, purport to be qualified or authorised to provide dental prosthetic services or purport to be a person who provides dental prosthetic services.

Maximum penalty:

- (a) for paragraph (a)—50 penalty units, imprisonment for 6 months or both;
- (b) for paragraph (b) or (c)—30 penalty units.
- (3) A registered person shall not perform dental technical work or provide a dental prosthetic service under a name other than the name under which the person is registered.

Maximum penalty: 50 penalty units.

- (4) In proceedings for an offence against subsection (1), (2) or (3), a certificate given by the chairperson that—
- (a) the person named in the certificate is not registered; or
- (b) the person named in the certificate is registered as a dental technician or dental prosthetist under that name;

is evidence of that fact.

38 Business names

- (1) A registered person shall not carry on business as a dental technician or dental prosthetist under a business name, that includes a name, title, addition or description (initials or letters placed after the person's name excepted) indicating or implying that the person is carrying on such a business, other than—
- (a) for a registered dental technician who is not a registered dental prosthetist—‘Dental Technician’ or ‘Dental Laboratory’; or

- (b) for a registered dental prosthetist—‘Dental Prosthetist’ or ‘Denture Clinic’.

Maximum penalty: 30 penalty units.

- (2) In this section:

business name—see the *Business Names Act 1963*.

39 Professional indemnity insurance—registered dental prosthetists

- (1) A registered dental prosthetist shall not provide a dental prosthetic service unless the prosthetist has professional indemnity insurance that relates to that service.

Maximum penalty: 50 penalty units.

- (2) Subsection (1) does not apply to a registered dental prosthetist who provides that service as an employee or agent.

40 Performance of dental technical work

A registered dental technician who is not a registered dental prosthetist shall not perform dental technical work other than on the order of—

- (a) a dentist registered under the *Dentists Registration Act 1931*;
or
(b) a registered dental prosthetist.

Maximum penalty: 50 penalty units.

Note If a form is approved under s 74 (Approved forms) for an order, the form must be used.

41 Recovery of fees

- (1) A person is not entitled to begin an action for the recovery of fees or remuneration for dental technical work performed or a dental prosthetic service provided, unless the person was—

- (a) at the time the person performed the work, a registered dental technician; or
 - (b) at the time the person provided the service, a registered dental prosthetist.
- (2) A person is not entitled to begin proceedings for the recovery of fees or remuneration for dental technical work performed for, or a dental prosthetic service provided to, another person or a dependant of that person unless—
- (a) an account for the fees or remuneration has been served on that other person; and
 - (b) the account is unpaid—
 - (i) if that other person has applied for a review of the account under section 42 (1)—at the end of 3 months after the date when a certificate under section 42 (2) was issued; or
 - (ii) in any other case—at the end of 3 months after the date of service.
- (3) An account shall specify—
- (a) the amount claimed; and
 - (b) a description of the work performed or service provided; and
 - (c) the date when the work was performed or the service provided; and
 - (d) the name of the person for whom the work was performed or to whom the service was provided.
- (4) Subsection (2) does not apply in relation to proceedings begun by a person under the *Arrest on Mesne Process Act 1902*, part 2.

42 Review of accounts

- (1) A person on whom an account is served under section 41 (2) (a) may, within 1 month after the date of service, apply in writing to the board for a review of the account.
- (2) The board shall, on receipt of an application, review the account and certify, by writing signed by the chairperson, the amount that, in the opinion of the board, is a reasonable amount of fees or remuneration for the dental technical work performed or dental prosthetic service provided.
- (3) The board shall set out in the certificate the facts on which the certification is based.
- (4) The board may request a person to give the information it considers necessary or desirable for the purposes of a review and may specify the time within which the information is to be given.
- (5) If a person fails to give the information within the time specified, the board may review the account without the information.
- (6) The board shall give the parties to an application any information given under subsection (4).
- (7) When reviewing an account, the board shall have regard to—
 - (a) the time occupied performing the work or providing the service; and
 - (b) the nature of the work performed or service provided; and
 - (c) any other circumstances submitted by the person who performed the work or provided the service.
- (8) The board shall serve a copy of the certificate on the person who performed the work or provided the service.
- (9) In proceedings for the recovery of fees or remuneration, the certificate of the board is evidence that the amount so certified is a

reasonable amount of fees or remuneration for the work performed or service provided.

43 Administration of deceased estate

On the death of a registered person who was at the time of death carrying on business as a dental technician or dental prosthetist, an executor, administrator or trustee of the estate may continue the business for 6 months or for any longer period that the board, on application by the executor, administrator or trustee, permits, if—

- (a) the dental technical work performed in the business is performed by a registered dental technician; and
- (b) the dental prosthetic services provided in the business are provided by a registered dental prosthetist.

Part 5 **Disciplinary procedures**

Division 5.1 **Cancellation and suspension**

44 **Cancellation or suspension**

- (1) The board may cancel the registration of a person whose registration has been obtained by fraud or misrepresentation.
- (2) The board may cancel the registration of an individual—
 - (a) for a registered dental technician—whose entitlement to practice as a dental technician in a State or another Territory has been cancelled or suspended on a ground other than the nonpayment of a fee; or
 - (b) for a registered dental prosthetist—
 - (i) whose registration as a dental technician has been cancelled or suspended on a ground other than the nonpayment of a fee; or
 - (ii) whose entitlement to practise as a dental prosthetist in a State or another Territory has been cancelled or suspended on a ground other than the nonpayment of a fee; or
 - (c) for a registered dental prosthetist to whom section 39 (1) applies—who fails to maintain professional indemnity insurance in relation to dental prosthetic services provided by the prosthetist otherwise than as an employee or agent; or
 - (d) who, for a person whose registration is suspended, is convicted of an offence against section 37; or
 - (e) who is convicted in the ACT or elsewhere of an offence punishable by imprisonment for 1 year or longer; or
 - (f) who is habitually drunk or is addicted to a drug; or

- (g) who is otherwise unfit to perform dental technical work or provide dental prosthetic services, as the case may be.
- (3) The board may cancel the registration of a company if the company has ceased to comply with the requirements of—
 - (a) for a registered dental technician—section 27 (1) (a), (b) or (c); and
 - (b) for a registered dental prosthetist—section 27 (2) (a), (b) or (c).
- (4) For a person to whom subsection (2) (a), (b), (c), (e), (f) or (g) applies, the board may, instead of cancelling the registration—
 - (a) suspend the person’s registration for the period it considers appropriate; or
 - (b) reprimand the person.
- (5) Subject to subsection (6), the board shall, on receipt of a written request by a registered person, cancel or suspend the person’s registration.
- (6) The board may refuse a request by a registered person to whom an inquiry under section 45 relates or if an inquiry under that section is pending.

45 Inquiry by board

- (1) The board shall hold an inquiry before—
 - (a) cancelling a person’s registration under section 44 (1), (2) or (3); or
 - (b) suspending a person’s registration, or reprimanding a person, under section 44 (4).
- (2) Pending the holding of an inquiry, the board may suspend the registration of the person to whom the inquiry relates.

46 Effect of suspension

A person whose registration is suspended shall, during the period of the suspension, be deemed not to be registered.

47 Application for re-registration

(1) A person whose registration—

- (a) has been cancelled, other than under section 34 (3); or
- (b) is suspended, other than under section 45 (2);

may apply in writing to the board for re-registration or termination of the suspension on the ground that, because of a specified change in circumstances that has occurred since the date of the cancellation or suspension, the person should be re-registered or the suspension should be terminated.

(2) The board shall, if satisfied that, because of the specified change in circumstances, the person should be re-registered or the suspension should be terminated, re-register the person or terminate the suspension.

Division 5.2 Inquiries

48 Meaning of *inquiry* in div 5.2

In this division:

inquiry means an inquiry under section 45 or 49.

49 Ministerial direction to hold inquiry

- (1) The Minister may, by written notice to the chairperson, direct the board to hold an inquiry in relation to a matter referred to in section 44 (1), (2) or (3).
- (2) If the Minister gives a direction, the board shall conduct an inquiry.

- (3) Nothing in this section shall be construed as limiting the board's power to hold an inquiry without a direction from the Minister.

50 Notice

- (1) The board shall serve written notice that an inquiry is to be held on each party to the inquiry.
- (2) The notice shall—
- (a) state the date, time and place of the inquiry; and
 - (b) identify the ground under section 44 (1), (2) or (3) on which the inquiry is to be held; and
 - (c) contain a statement of the matters to be considered at the inquiry; and
 - (d) be served on each party to the inquiry at least 30 days before the date of the inquiry.

51 Constitution of board

- (1) At an inquiry, a quorum is constituted by—
- (a) the chairperson; and
 - (b) at least 3 other members.
- (2) The chairperson shall preside at an inquiry.

52 Records

The board shall keep a record of its proceedings.

53 Procedure

- (1) An inquiry shall be conducted with as little formality and technicality, and with as much expedition, as is practicable to permit a proper consideration of the matters before the board.

- (2) In an inquiry the board is not bound by the rules of evidence but may inform itself of any matter in the way it considers appropriate.
- (3) Subject to this Act, the chairperson may give directions as to the procedure to be followed in relation to an inquiry.

54 Inquiries to be in public

- (1) Subject to subsection (2), an inquiry shall be in public.
- (2) If the board is satisfied that it is desirable to do so because of the confidential nature of any evidence or matter or for any other reason, the board may—
 - (a) direct that an inquiry take place in private and give directions as to the persons who may be present; and
 - (b) give directions prohibiting or restricting the publication of—
 - (i) evidence given at an inquiry, whether in public or in private; or
 - (ii) matters contained in documents produced at an inquiry; and
 - (c) give directions prohibiting or restricting the disclosure to some or all of the parties to an inquiry of—
 - (i) evidence given at the inquiry; or
 - (ii) the contents of a document produced at the inquiry.
- (3) A person shall not fail to comply with a direction given by the board under subsection (2) (b) or (c).

Maximum penalty: 50 penalty units.

55 Assistance

- (1) The Minister may appoint a lawyer to assist the board at an inquiry.

- (2) The chairperson may appoint a person other than a lawyer to assist the board at an inquiry.

56 Representation

- (1) A party to an inquiry may be represented by another person.
- (2) The board may, at the request of a person summoned under section 57 (1) (c), allow the person to be represented by another person.

57 Powers of board

- (1) At an inquiry, the board may—
- (a) require a person to give evidence on oath or affirmation and, for that purpose, a member may administer an oath or affirmation; and
 - (b) proceed in the absence of a party who has been served with a notice under section 50; and
 - (c) summon a person, by written notice signed by the chairperson, to attend the inquiry at the time and place specified in the notice—
 - (i) to give evidence; or
 - (ii) to produce the documents (if any) specified in the summons.
- (2) The board may adjourn an inquiry from time to time.

58 Inspection of documents

- (1) A member may—
- (a) inspect any document produced at an inquiry; and
 - (b) make copies of, or take extracts from, any part of the document that is relevant to the inquiry.

- (2) The board may, for the purposes of an inquiry, take and keep for as long as is necessary possession of a document produced at an inquiry.

59 Decisions

At the conclusion of an inquiry, the board shall make a decision according to the opinion of—

- (a) the majority of the members present at the inquiry; or
(b) if there is no majority—the chairperson.

60 Protection

- (1) A person who represents a party at an inquiry has the same protection and immunity as a barrister appearing for a party in proceedings in the Supreme Court.
- (2) A witness appearing at an inquiry has the same protection as a witness in proceedings in the Supreme Court.

61 Witness fees and travelling expenses

- (1) This section applies to a person (the *witness*) who attends a hearing of the board to give evidence (whether voluntarily or under a summons).
- (2) The witness is entitled to receive the fees and travelling expenses that the presiding member directs in accordance with the scale and conditions applying to people who attend as witnesses before the Supreme Court.

Note For the Supreme Court scale, see *Supreme Court Rules*, sch 3, pt 3.8.

- (3) The fees and expenses are payable by—
- (a) if the witness attended at the request of a board member—the Territory; or

- (b) in any other case—the person who requested the attendance of the witness.

62 Offences—inquiries

- (1) A person served with a summons under section 57 (1) (c) shall not fail, without reasonable excuse—
 - (a) to attend the inquiry as required by the summons; or
 - (b) to produce a document that is specified in the summons.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person appearing as a witness at an inquiry shall not fail, without reasonable excuse—
 - (a) to be sworn or to make an affirmation; or
 - (b) to answer a question that the person is required by a member to answer.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) A statement or disclosure made before the board by a person is not, except in proceedings for giving false testimony at an inquiry, admissible in evidence against the person in civil or criminal proceedings.

Part 6 **Miscellaneous**

Division 6.1 **Review of board's decisions**

63 **Review of decisions**

Application may be made to the administrative appeals tribunal for a review of a decision of the board—

- (a) refusing to register a person under section 26, 27 or 30; or
- (b) refusing an application under section 43; or
- (c) cancelling a person's registration under section 44 (1), (2) or (3); or
- (d) suspending a person under section 44 (4); or
- (e) reprimanding a person under section 44 (4); or
- (f) refusing to—
 - (i) re-register a person; or
 - (ii) terminate a person's suspension;under section 47 (2).

64 **Notification of decisions**

- (1) If the board makes a decision of a kind referred to in section 63, the board shall give written notice of the decision to—
 - (a) for a decision of the kind referred to in section 63 (c), (d) or (e)—each party to the relevant inquiry; and
 - (b) in any other case—the person in relation to whom the decision was made.

- (2) A notice under subsection (1) shall be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

Division 6.2 General

66 Inspection of register

- (1) A person may—
- (a) inspect an entry in a register; or
 - (b) obtain a certified copy of an entry.
- (2) The board may, on request by a registration authority and without payment by the registration authority of a fee, give a certified copy of an entry in a register to the registration authority.
- (3) In subsection (2):

registration authority means a person or body empowered by or under a law of a State or another Territory or of a foreign country to register dental technicians or dental prosthetists or otherwise to authorise the performance of dental technical work or the provision of dental prosthetic services.

67 Evidence

- (1) A document that purports to be signed by the chairperson shall be taken to have been so signed unless the contrary is proved.
- (2) A document that purports to be—
- (a) a record of the terms of a decision of the board; and
 - (b) certified by the chairperson to be a true record of the decision;
- is, in any proceedings, evidence of the decision.

68 Offences

A person shall not—

- (a) insult a member in relation to the exercise of the member's functions; or
- (b) interrupt an inquiry; or
- (c) create a disturbance, or take part in creating or continuing a disturbance, in or near where the board is holding an inquiry.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

69 Publication of decisions

(1) If—

- (a) a decision of the kind referred to in section 63 (c), (d) or (e) has been made by the board or affirmed by the administrative appeals tribunal; and
- (b) the chairperson believes on reasonable grounds that it is in the public interest to do so;

the chairperson may prepare a written notice of the decision and the reasons for the decision, including the findings on material questions of fact.

(2) The notice is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

(3) The notice must not be notified until—

- (a) for a decision of the board in relation to which an application under section 63 has been made—
 - (i) the application has been withdrawn; or
 - (ii) the administrative appeals tribunal has given its decision on the application;

whichever occurs first; and

- (b) in any other case—the period within which an application under section 63 may be made has ended.

70 Publication of names etc of registered persons

- (1) As soon as practicable after 1 September in each year, the board must prepare a written notice containing, in relation to each registered person, the person's name and—
 - (a) for an individual—the person's professional address in the ACT; or
 - (b) for a company that carries on business from an address in the ACT—that address.
- (2) The notice is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

71 Conduct of directors, servants and agents

- (1) If, in proceedings for an offence against this Act, it is necessary to establish the state of mind of a company in relation to particular conduct, it is sufficient to show—
 - (a) that the conduct was engaged in by a director, servant or agent of the company within the scope of his or her actual or apparent authority; and
 - (b) that the director, servant or agent had the state of mind.
- (2) Any conduct engaged in on behalf of the company by a director, servant or agent of the company within the scope of his or her actual or apparent authority shall be taken, for the purposes of a prosecution for an offence against this Act, to have been engaged in also by the company unless the company establishes that the company took reasonable precautions and exercised due diligence to avoid the conduct.

- (3) If, in proceedings for an offence against this Act, it is necessary to establish the state of mind of an individual in relation to particular conduct, it is sufficient to show—
- (a) that the conduct was engaged in by a servant or agent of the person within the scope of his or her actual or apparent authority; and
 - (b) that the servant or agent had the state of mind.
- (4) Any conduct engaged in on behalf of an individual by a servant or agent of the person within the scope of his or her actual or apparent authority shall be taken, for the purposes of a prosecution for an offence against this Act, to have been engaged in also by the firstmentioned person unless the firstmentioned person establishes that the firstmentioned person took reasonable precautions and exercised due diligence to avoid the conduct.
- (5) If—
- (a) an individual is convicted of an offence; and
 - (b) the person would not have been convicted of the offence if subsections (3) and (4) had not been made;
- the person is not liable to be punished by imprisonment for that offence.
- (6) A reference in subsection (1) or (3) to the *state of mind* of a person includes a reference to—
- (a) the knowledge, intention, opinion, belief or purpose of the person; and
 - (b) the person's reasons for the intention, opinion, belief or purpose.
- (7) A reference in this section to *engaging* in conduct includes a reference to failing or refusing to engage in conduct.

73 Determination of fees

- (1) The Minister may, in writing, determine fees for this Act.

Note The *Legislation Act 2001* contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

74 Approved forms

- (1) The board may, in writing, approve forms for this Act.

- (2) If the board approves a form for a particular purpose, the approved form must be used for that purpose.

Note For other provisions about forms, see *Legislation Act 2001*, s 255.

- (3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

75 Regulation-making power

The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
cl = clause	pres = present
def = definition	prev = previous
dict = dictionary	(prev...) = previously
disallowed = disallowed by the Legislative Assembly	pt = part
div = division	r = rule/subrule
exp = expires/expired	reg = regulation/subregulation
Gaz = Gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

Endnotes

3 Legislation history

3 Legislation history

This Act was originally a Commonwealth ordinance—the *Dental Technicians and Dental Prosthetists Registration Ordinance 1988* No 85 (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* No 21, s 5 on 11 May 1989 (self-government day).

Legislation before becoming Territory enactment

Dental Technicians and Dental Prosthetists Registration Act 1988 No 85

notified 21 December 1988

commenced 22 December 1988 (s 2 and Cwlth Gaz 1988 No S401)

as amended by

Self-Government (Consequential Amendments) Ordinance 1989 No 38 sch 1

notified 10 May 1989 (Cwlth Gaz 1989 No S160)

s 1, s 2 commenced 10 May 1989 (s 2 (1))

sch 1 commenced 11 May 1989 (s 2 (2) and see Cwlth Gaz 1989 No S164)

Legislation after becoming Territory enactment

Administrative Appeals (Consequential Amendments) Act 1994 No 60 sch 1

notified 11 October 1994 (Gaz 1994 No S197)

s 1, s 2 commenced 11 October 1994 (s 2 (1))

sch 1 commenced 14 November 1994 (s 2 (2) and see Gaz 1994 No S250)

Statute Law Revision (Penalties) Act 1994 No 81 sch

notified 29 November 1994 (Gaz 1994 No S253)

s 1, s 2 commenced 29 November 1994 (s 2 (1))

sch commenced 29 November 1994 (s 2 (2) and Gaz 1994 No S269)

Annual Reports (Government Agencies) (Consequential Provisions) Act 1995 No 25 sch

notified 5 September 1995 (Gaz 1995 No S212)
commenced 5 September 1995 (s 2)

Legal Practitioners (Consequential Amendments) Act 1997 No 96 sch 1

notified 1 December 1997 (Gaz 1997 No S380)
s 1, s 2 commenced 1 December 1997 (s 2 (1))
sch 1 commenced 1 June 1998 (s 2 (2))

Dental Technicians and Dental Prosthetists Registration (Amendment) Act 1997 No 107

notified 24 December 1997 (Gaz 1997 No S420)
commenced 24 December 1997 (s 2)

Dental Technicians and Dental Prosthetists Registration (Amendment) Act (No 2) 1997 No 111

notified 24 December 1997 (Gaz 1997 No S420)
commenced 24 December 1997 (s 2)

Legislation (Consequential Amendments) Act 2001 No 44 pt 100

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 100 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Statute Law Amendment Act 2002 No 30 pt 3.17

notified LR 16 September 2002
s 1, s 2 taken to have commenced 19 May 1997 (LA s 75 (2))
pt 3.17 commenced 17 September 2002 (s 2 (1))

Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 2 pt 2.25

notified LR 26 March 2004
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))
sch 2 pt 2.25 commenced 9 April 2004 (s 2 (1))

4 Amendment history

Commencement

s 2 om 2001 No 44 amdt 1.1057

R6
09/04/04

Dental Technicians and Dental Prosthetists Registration
Act 1988

page 43

Effective: 09/04/04-09/01/05

Endnotes

4 Amendment history

Interpretation for Act

s 3 def **determined fee** om 2001 No 44 amdt 1.1058
def **tribunal** sub 1989 No 38 sch 1
om 1994 No 60 sch 1

General

div 2.1 hdg (prev pt 2 div 1 hdg) renum R4 LA

Membership

s 7 am 1997 No 107 s 4

Remuneration

s 13 am 1997 No 111 s 4

Annual reports

s 17 om 1995 No 25 sch

Meetings

div 2.2 hdg (prev pt 2 div 2 hdg) renum R4 LA

Applications for registration

s 25 sub 2001 No 44 amdt 1.1059

Registration of individuals

s 26 am 2001 No 44 amdt 1.1060

Attendance

s 28 am A2004-15 amdt 2.52

Temporary registration

s 30 am 2001 No 44 amdt 1.1061, amdt 1.1062

Certificate of registration

s 33 am 1994 No 81 sch; 2001 No 44 amdt 1.1063

Annual registration fee

s 34 hdg sub 2001 No 44 amdt 1.1064

s 34 am 2001 No 44 amdt 1.1065-1.1067

Change of address

s 35 am 1994 No 81 sch

Alteration of registers

s 36 am 2001 No 44 amdt 1.1068, amdt 1.1069

Persons who may practise

s 37 am 1994 No 81 sch

Business names

s 38 am 1994 No 81 sch

Professional indemnity insurance—registered dental prosthetists

s 39 am 1994 No 81 sch

Performance of dental technical work

s 40 am 1994 No 81 sch; 2001 No 44 amdts 1.1070-1.1072

Cancellation and suspension

div 5.1 hdg (prev pt 5 div 1 hdg) renum R4 LA

Inquiries

div 5.2 hdg (prev pt 5 div 2 hdg) renum R4 LA

Meaning of *inquiry* in div 5.2

s 48 am 1997 No 96 sch 1

Inquiries to be in public

s 54 am 1994 No 81 sch

Assistance

s 55 am 1989 No 38 sch 1; 1997 No 96 sch 1

Protection

s 60 am 1997 No 96 sch 1

Witness fees and travelling expenses

s 61 sub 2002 No 30 amdt 3.215

Offences—inquiries

s 62 am 1994 No 81 sch

Review of board's decisions

div 6.1 hdg (prev pt 6 div 1 hdg) renum R4 LA

Review of decisions

s 63 am 1994 No 60 sch 1

Notification of decisions

s 64 am 1989 No 38 sch 1; 1994 No 60 sch 1

General

div 6.2 hdg (prev pt 6 div 2 hdg) renum R4 LA

False statements

s 65 am 1994 No 81 sch
om A2004-15 amdt 2.53

Inspection of register

s 66 am 2001 No 44 amdt 1.1073

Offences

s 68 am 1994 No 81 sch

Publication of decisions

s 69 am 1994 No 60 sch 1; 2001 No 44 amdts 1.1074-1.1076

Publication of names etc of registered persons

s 70 sub 2001 No 44 amdt 1.1077

Endnotes

5 Earlier republications

Penalties for companies

s 72 om R4 LA

Determination of fees

s 73 sub 2001 No 44 amdt 1.1078

Approved forms

s 74 am 1989 No 38 sch 1
sub 2001 No 44 amdt 1.1078

Transitional

pt 7 hdg om 2001 No 44 amdt 1.1079

Regulation-making power

s 75 om 2001 No 44 amdt 1.1079
ins 2001 No 44 amdt 1.1078

First board members

s 76 om 2001 No 44 amdt 1.1079

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Ord 1989 No 38	31 May 1991
2	Act 1994 No 81	31 January 1995
3	Act 1997 No 111	1 June 1998
4	Act 2001 No 44	13 June 2002
5	A2002-30	9 October 2002

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